

Socha, Julianne

From: Socha, Julianne
Sent: Wednesday, May 22, 2013 3:38 PM
To: 'Elder, Kevin'
Cc: Berman, Michael; Morgan, James
Subject: RE: Ohio criminal enforcement authority for NPDES program

Kevin,

EPA has reviewed Ohio's proposed language in your May 22, 2013 email and we find this language acceptable.

Please feel free to contact me if you have any questions. I will be in the office tomorrow then out until Tuesday, May 28. In response to the sequestration, EPA offices will be closed on Friday, May 24 for a designated furlough day and on Monday, May 27 in observance of the Memorial Day holiday.

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From: Elder, Kevin [mailto:Elder@agri.ohio.gov]
Sent: Wednesday, May 22, 2013 2:23 PM
To: Socha, Julianne
Subject: RE: Ohio criminal enforcement authority for NPDES program

Good Afternoon Julianne,

We have looked at the section that you mentioned and agree that we need the additional section. We ran it through the attorneys and had a few wording changes to what you sent to make it clearer that it is for NPDES permits not state permits.

We need to get it in by next Monday as an amendment to the Senate version. I know I'm asking a lot, but can you see if you can get this OK'd and back by then....We will try to get it completed.....Thanks!

"No person shall violate or fail to perform any duty required by section 903.08, division (B)(1), (C)(1), (F), (K) or (M)(1) or (2) of the Revised Code, section 903.12 of the Revised Code, or any duty required by section 903.12 of the Revised Code, violate a rule, or violate an order, or NPDES term, or condition of a NPDES permit."

Kevin H. Elder, Chief
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From: Socha, Julianne [<mailto:socha.julianne@epa.gov>]
Sent: Monday, May 20, 2013 1:00 PM
To: Elder, Kevin
Cc: Morgan, James; Berman, Michael; Rodgers, Michael; Farmer, Aaron
Subject: RE: Ohio criminal enforcement authority for NPDES program

Kevin,

As I indicated to you in my May 7, 2013 email, EPA became aware that HB 59, as passed by the House on April 18, 2013, included edits to the criminal intent standard language that was previously found acceptable to EPA and that EPA may have concerns with some of the edits. We have completed our review of the edits made to 903.30 in HB 59 and have identified edits that cause the language to no longer meet EPA requirements regarding NPDES program enforcement. The language as passed by the House excludes sections of 903 that are part of the NPDES program and therefore, should be subject to the negligence criminal intent standard.

Specifically, EPA recommends that the language in 903.30(A) of HB59, as passed by the House, be revised to the following.

Sec. 903.30. (A) No person shall violate or fail to perform any duty required by section 903.08, division (B)(1), (C)(1), (F), (K) or (M)(1) or (2), or any duty required by section 903.12 of the Revised Code, violate a rule, or violate an order or NPDES term or condition of a permit.

Ohio needs to edit Sec. 903.30 (A), as recommended above, in order for Ohio to have the ability to enforce for criminal violations of the NPDES program.

Please feel free to contact me should you have any questions.

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From: Elder, Kevin [<mailto:Elder@agri.ohio.gov>]
Sent: Wednesday, May 08, 2013 10:23 AM
To: Socha, Julianne
Cc: Morgan, James; Berman, Michael; Rodgers, Michael; Farmer, Aaron
Subject: RE: Ohio criminal enforcement authority for NPDES program

Good Morning Julianne,

Thanks for your e-mail.

If there is anything we can do to explain what the changes made by the legislature mean, we would be glad to assist. They did not want the criminal negligence provisions to apply to all the other state only permits.

We would be glad to participate in a conference call if needed.

There is some urgency to resolve this issue before the Senate acts on the bill probably later this month.

Thanks!

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From: Socha, Julianne [<mailto:socha.julianne@epa.gov>]
Sent: Tuesday, May 07, 2013 9:14 AM
To: Elder, Kevin
Cc: Morgan, James; Berman, Michael
Subject: Ohio criminal enforcement authority for NPDES program

Hello Kevin,
As mentioned in EPA's April 26 correspondence to you, EPA and the State of Ohio reached agreement on statutory changes that would address concerns raised by EPA regarding Ohio's criminal intent standard for NPDES program enforcement. As you know, the language reviewed and found acceptable by EPA was introduced to the state legislature in February 2013 as HB 59.

EPA has become aware that HB 59, as passed by the House on April 18 2013, included edits to the criminal intent standard language that was previously found acceptable to EPA.

EPA is still reviewing the language as passed by the House, however, after our initial review, we are concerned about some of the edits. Upon completion of our review, we will let you know if the edits cause the language to no longer meet EPA requirements regarding NPDES program enforcement.

Please feel free to contact me should you have any questions.

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